This view is so clearly sustained on general principles, that it is unnecessary to consider the other questions raised in the case. The Supreme Court of Mississippi in the case of Arthur v. The Bank, 9 Smedes & Marshall, 394, held this deed to be fraudulent against creditors; and also the Supreme Court of Louisiana, in Fellows v. The Commercial and Railroad Bank of Vicksburg, 6 Rob. 246. The judgment of the Circuit Court is affirmed, with costs.

Order.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the District of Louisiana, and was argued by counsel. On consideration whereof, it is now here ordered and decreed by this court, that the decree of the said Circuit Court in this cause be and the same is hereby affirmed, with costs.

WILLIAM CRAWFORD AND DAVID FILES, PLAINTIFFS IN ERROR, v. THE BRANCH BANK OF ALABAMA AT MOBILE.

A statute of the State of Alabama, directing that promissory notes given to the cashier of a bank may be sued and collected in the name of the bank, is a law which affects the remedy only, and, although passed after the note was executed, does not impair the obligation of the contract.

Besides, the record does not show that the question of the consistency of the statute with the Constitution of the United States was raised in the State court; and therefore a writ of error issued under the twenty-fifth section of the Judiciary Act must be dismissed on motion.

THIS was a writ of error sued out under the twenty-fifth section of the Judiciary Act, and directed to the Supreme Court of Alabama.

In May, 1841, the following promissory note was executed: —

"$ 3,817.50.

"Two hundred and fifteen days after date, we jointly and severally promise to pay to B. Gayle, cashier, or order, three thousand eight hundred and seventeen $\frac{50}{100}$ dollars, negotiable and payable at the Branch of the Bank of the State of Alabama, at Mobile, for value received, this 31st day of May, 1841.

"WILLIAM CRAWFORD,
DAVID FILES,
R. G. GORDON."

On the 4th of December, 1841, the legislature passed an act, from which the following is an extract: — "All notes, bills.

bonds, or other evidences of debt, held by the State Bank or branch banks, payable to the cashier or to the person who has filled the office of cashier of said bank or branch banks, may be sued and collected in the name of the several banks, in the same manner as if they had been made payable directly to said bank or branch banks by which the paper has been taken or discounted." "No notice, writ, declaration, or judgment which has been issued, filed, or rendered on such papers, shall be abated, set aside, or reversed, on account of the want of assignment, transfer, or indorsement of said papers by the officer or person acting as cashier to whom it was so made payable. But the legal title to such paper for all purposes of collection shall be deemed to have been in said bank or branch bank by whom the paper was discounted." See Clay's Digest, p. 112, §§ 47, 48.

In May, 1844, judgment was entered up upon the above note in a summary manner, upon motion and thirty days' notice, according to the law of that State. A jury was sworn, who assessed the damages at $ 4,537.20.

The defendants took the following bill of exceptions, viz.: —

"Upon the trial of this cause, the plaintiff produced the original papers hereto attached, marked A, being the notice, the certificates and returns, the note, and protest, and moved for judgment without further proof of the same. The defendants objected to the court taking cognizance of the case or allowing judgment, which was overruled and judgment entered; to which the defendants object, and pray the court to sign and seal this bill, which is done.

"SAMUEL CHAPMAN, *Judge.* [SEAL.]"

Upon this bill of exceptions the case was carried to the Supreme Court of the State of Alabama, and the following errors assigned.

Assignment of Errors.

And the said William Crawford comes, when, &c., and says, that there is error in the record and proceedings of the court below, in this, to wit: —

1. That it appears from the record and the note upon which the suit is founded, and which is made a part of it by the bill of exceptions, that the said promissory note was made payable to B. Gayle, cashier, and that the said note has not been assigned to the said branch bank, nor was it alleged or proved, as the judgment entry shows, that the said note was made or given to the said branch bank by the name of B. Gayle, nor that B. Gayle acted as the agent of the said bank in taking

said note; and that it doth not appear, from the record, that the said branch bank has any interest in the said note.

2. That there is error in this, that it was not proved to the court below that Jacob J. Marsh, who returned the notice executed, styling himself agent for the said branch bank, nor that his handwriting was proved; but, on the contrary, it is stated in the bill of exceptions that there was no proof to that effect.

WILLIAM CRAWFORD, *for himself.*

The Supreme Court of Alabama affirmed the judgment of the court below, and a writ of error brought the case up to this court.

Mr. Inge moved to dismiss the case for want of jurisdiction. After stating the case, he argued that no question was shown by the record to have been raised in the Supreme Court of Alabama, which could give this court jurisdiction. The validity of the statute did not appear to have been drawn in question on account of its incompatibility with the Constitution of the United States; and if it had been, it must appear that it only affected the remedy, without at all impairing the obligation of the contract.

Mr. Crawford filed a printed argument, in order to show that the validity of the statute must necessarily have been passed upon by the Supreme Court of Alabama, and that the statute changed altogether the terms of the contract. The plaintiffs in error had made a contract with one person, and by virtue of the statute they were declared to have made this contract with another person, namely, the bank. The passage of the act by the State of Alabama, and its application in favor of a bank owned by it, are admissions by those interested, and in fact by the plaintiffs below in this cause, under another name, that the contract was not with the Bank of the State of Alabama, but with B. Gayle.

Mr. Justice McLEAN delivered the opinion of the court.

A summary mode of proceeding, authorized by its charter, was instituted by the Branch Bank of Alabama, in the Circuit Court of the State, against the defendants below, on a promissory note for three thousand eight hundred and seventeen dollars fifty cents, dated 31st May, 1841, payable to B. Gayle, cashier, or order, two hundred and fifteen days after date.

A jury being called and sworn, found a verdict for the plaintiffs, on which judgment was entered. On the trial the defendant excepted to the opinion of the court, admitting as evidence the note, protest, &c. A writ of error being prosecuted

to the Supreme Court of Alabama, the judgment of the Circuit Court was affirmed.

In the Supreme Court the following assignment of errors was made: —

"1. That it appears from the record and the note upon which the suit is founded, and which is made a part of it by the bill of exceptions, that the said promissory note was made payable to B. Gayle, cashier, and that the said note has not been assigned to the said branch bank, nor was it alleged or proved, as the judgment entry shows, that the said note was made or given to the said branch bank by the name of B. Gayle, nor that B. Gayle acted as the agent of the said bank in taking said note; and that it doth not appear, from the record, that the said branch bank has any interest in the said note.

"2. That there is error in this, that it was not proved to the court below that Jacob J. Marsh, who returned the notice executed, styling himself agent for the said branch bank, nor that his handwriting was proved; but, on the contrary, it is stated in the bill of exceptions that there was no proof to that effect."

A motion is made to dismiss this cause for want of jurisdiction, and on looking into the record it is clear there is no ground on which this court can revise the judgment of the Supreme Court of Alabama. No question was made under the twenty-fifth section of the Judiciary Act of 1789; nor does it appear that any law of Alabama, which impaired the obligation of the contract, influenced the judgment of the Supreme Court.

The note was made payable to B. Gayle, cashier. And this designation as cashier was not made, it is presumed, as matter of description, but to show that the note was given to the agent of the bank, and for its use. A law was passed in Alabama authorizing suits to be brought on such notes in the name of the bank; and it is contended that this law impairs the obligation of the contract, especially as regards contracts made prior to its passage.

The law is strictly remedial. It in no respect affects the obligation of the contract. Neither the manner nor the time of payment is changed. The bank, being the holder of the note, and having the beneficial interest in it, is authorized by the statute to sue in its own name. This is nothing more than carrying out the contract according to its original intendment. The cause is dismissed.

Order.

This cause came on to be heard on the transcript of the record of the Supreme Court of the State of Alabama, and on the

motion of Mr. Inge, of counsel for the defendants in error, to dismiss this writ of error for the want of jurisdiction. On consideration whereof, it is now here ordered and adjudged by this court, that this cause be and the same is hereby dismissed for the want of jurisdiction.

GEORGE SMITH, PLAINTIFF IN ERROR, *v.* WILLIAM TURNER, HEALTH-COMMISSIONER OF THE PORT OF NEW YORK.

JAMES NORRIS, PLAINTIFF IN ERROR, *v.* THE CITY OF BOSTON.

Statutes of the States of New York and Massachusetts, imposing taxes upon alien passengers arriving in the ports of those States, declared to be contrary to the Constitution and laws of the United States, and therefore null and void.

Inasmuch as there was no opinion of the court, as a court, the reporter refers the reader to the opinions of the judges for an explanation of the statutes and the points in which they conflicted with the Constitution and laws of the United States.

THESE were kindred cases, and were argued together. They were both brought up to this court by writs of error issued under the twenty-fifth section of the Judiciary Act; the case of Smith *v.* Turner being brought from the Court for the Trial of Impeachments and Correction of Errors of the State of New York, and the case of Norris *v.* The City of Boston from the Supreme Judicial Court of Massachusetts. The opinions of the justices of this court connect the two cases so closely, that the same course will be pursued in reporting them which was adopted in the License Cases. Many of the arguments of counsel relate indiscriminately to both. A statement of each case will, therefore, be made separately, and the arguments and opinions be placed in their appropriate class, as far as practicable.

SMITH *v.* TURNER.

In the first volume of the Revised Statutes of New York, pages 445, 446, title 4, will be found the law of the State whose constitutionality was brought into question in this case. The law relates to the marine hospital, then established upon Staten Island, and under the superintendence of a physician and certain commissioners of health.

The seventh section provides, that "the health-commissioner shall demand and be entitled to receive, and in case of neglect or refusal to pay shall sue for and recover, in his name of office,